

## SENATE BILL No. 292

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-1; IC 11-8; IC 35-41-1-17.

**Synopsis:** Police powers of correctional police officers. Authorizes the commissioner of the department of correction to appoint certain individuals as correctional police officers. Requires a correctional police officer to complete a pre-basic training course approved by the law enforcement training board and any other training course established by the department of correction in conjunction with the law enforcement training board. Grants correctional police officers police powers, but only: (1) in connection with offenses committed on the property of the department of correction; (2) in connection with an offense involving an offender who is committed to the department; (3) in connection with an offense committed in the presence of an officer; or (4) while assisting another law enforcement officer who has requested the assistance of the correctional police officer. (The introduced version of this bill was prepared for the sentencing policy study committee.)

**Effective:** July 1, 2009.

**Steele**

January 7, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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## SENATE BILL No. 292

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A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-2-1-2, AS AMENDED BY P.L.2-2007,  
2       SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2009]: Sec. 2. For the purposes of this chapter, and unless the  
4       context clearly denotes otherwise, the following definitions apply  
5       throughout this chapter:

6       (1) "Law enforcement officer" means an appointed officer or  
7       employee hired by and on the payroll of the state, any of the  
8       state's political subdivisions, or a public or private postsecondary  
9       educational institution whose board of trustees has established a  
10      police department under IC 21-17-5-2 or IC 21-39-4-2 who is  
11      granted lawful authority to enforce all or some of the penal laws  
12      of the state of Indiana and who possesses, with respect to those  
13      laws, the power to effect arrests for offenses committed in the  
14      officer's or employee's presence. However, the following are  
15      expressly excluded from the term "law enforcement officer" for  
16      the purposes of this chapter:

17      (A) A constable.



(B) A special officer whose powers and duties are described in IC 36-8-3-7 or a special deputy whose powers and duties are described in IC 36-8-10-10.6.

(C) A county police reserve officer who receives compensation for lake patrol duties under IC 36-8-3-20(f)(4).

(D) A conservation reserve officer who receives compensation for lake patrol duties under IC 14-9-8-27.

(E) An employee of the gaming commission whose powers and duties are described in IC 4-32.2-9.

**(F) A correctional police officer described in IC 11-8-9.**

(2) "Board" means the law enforcement training board created by this chapter.

(3) "Advisory council" means the law enforcement advisory council created by this chapter.

(4) "Executive training program" means the police chief executive training program developed by the board under section 9 of this chapter.

(5) "Law enforcement training council" means one (1) of the confederations of law enforcement agencies recognized by the board and organized for the sole purpose of sharing training, instructors, and related resources.

(6) "Training regarding the lawful use of force" includes classroom and skills training in the proper application of hand to hand defensive tactics, use of firearms, and other methods of:

(A) overcoming unlawful resistance; or

(B) countering other action that threatens the safety of the public or a law enforcement officer.

(7) "Hiring or appointing authority" means:

(A) the chief executive officer, board, or other entity of a police department or agency with authority to appoint and hire law enforcement officers; or

(B) the governor, mayor, board, or other entity with the authority to appoint a chief executive officer of a police department or agency.

SECTION 2. IC 5-2-1-9, AS AMENDED BY P.L.128-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and

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moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

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(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (r), and (s), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

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1 (B) investigator;  
 2 designated by the securities commissioner as a police officer of  
 3 the state under IC 23-2-1-15(i) **(repealed)**.  
 4 Before a law enforcement officer appointed after June 30, 1993,  
 5 completes the basic training requirements, the law enforcement officer  
 6 may exercise the police powers described in subsection (d) if the  
 7 officer successfully completes the pre-basic course established in  
 8 subsection (f). Successful completion of the pre-basic course authorizes  
 9 a law enforcement officer to exercise the police powers described in  
 10 subsection (d) for one (1) year after the date the law enforcement  
 11 officer is appointed.  
 12 (f) The board shall adopt rules under IC 4-22-2 to establish a  
 13 pre-basic course for the purpose of training:  
 14 (1) law enforcement officers;  
 15 (2) police reserve officers (as described in IC 36-8-3-20); and  
 16 (3) conservation reserve officers (as described in IC 14-9-8-27);  
 17 regarding the subjects of arrest, search and seizure, the lawful use of  
 18 force, and the operation of an emergency vehicle. The pre-basic course  
 19 must be offered on a periodic basis throughout the year at regional sites  
 20 statewide. The pre-basic course must consist of at least forty (40) hours  
 21 of course work. The board may prepare the classroom part of the  
 22 pre-basic course using available technology in conjunction with live  
 23 instruction. The board shall provide the course material, the instructors,  
 24 and the facilities at the regional sites throughout the state that are used  
 25 for the pre-basic course. In addition, the board may certify pre-basic  
 26 courses that may be conducted by other public or private training  
 27 entities, including postsecondary educational institutions.  
 28 (g) The board shall adopt rules under IC 4-22-2 to establish a  
 29 mandatory inservice training program for police officers. After June 30,  
 30 1993, a law enforcement officer who has satisfactorily completed basic  
 31 training and has been appointed to a law enforcement department or  
 32 agency on either a full-time or part-time basis is not eligible for  
 33 continued employment unless the officer satisfactorily completes the  
 34 mandatory inservice training requirements established by rules adopted  
 35 by the board. Inservice training must include training in interacting  
 36 with persons with mental illness, addictive disorders, mental  
 37 retardation, and developmental disabilities, to be provided by persons  
 38 approved by the secretary of family and social services and the board,  
 39 and training concerning human and sexual trafficking. The board may  
 40 approve courses offered by other public or private training entities,  
 41 including postsecondary educational institutions, as necessary in order  
 42 to ensure the availability of an adequate number of inservice training

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1 programs. The board may waive an officer's inservice training  
 2 requirements if the board determines that the officer's reason for  
 3 lacking the required amount of inservice training hours is due to either  
 4 of the following:

- 5 (1) An emergency situation.
- 6 (2) The unavailability of courses.

7 (h) The board shall also adopt rules establishing a town marshal  
 8 basic training program, subject to the following:

9 (1) The program must require fewer hours of instruction and class  
 10 attendance and fewer courses of study than are required for the  
 11 mandated basic training program.

12 (2) Certain parts of the course materials may be studied by a  
 13 candidate at the candidate's home in order to fulfill requirements  
 14 of the program.

15 (3) Law enforcement officers successfully completing the  
 16 requirements of the program are eligible for appointment only in  
 17 towns employing the town marshal system (IC 36-5-7) and having  
 18 not more than one (1) marshal and two (2) deputies.

19 (4) The limitation imposed by subdivision (3) does not apply to an  
 20 officer who has successfully completed the mandated basic  
 21 training program.

22 (5) The time limitations imposed by subsections (b) and (c) for  
 23 completing the training are also applicable to the town marshal  
 24 basic training program.

25 (i) The board shall adopt rules under IC 4-22-2 to establish an  
 26 executive training program. The executive training program must  
 27 include training in the following areas:

- 28 (1) Liability.
- 29 (2) Media relations.
- 30 (3) Accounting and administration.
- 31 (4) Discipline.
- 32 (5) Department policy making.
- 33 (6) Lawful use of force.
- 34 (7) Department programs.
- 35 (8) Emergency vehicle operation.
- 36 (9) Cultural diversity.

37 (j) A police chief shall apply for admission to the executive training  
 38 program within two (2) months of the date the police chief initially  
 39 takes office. A police chief must successfully complete the executive  
 40 training program within six (6) months of the date the police chief  
 41 initially takes office. However, if space in the executive training  
 42 program is not available at a time that will allow completion of the

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1 executive training program within six (6) months of the date the police  
2 chief initially takes office, the police chief must successfully complete  
3 the next available executive training program that is offered after the  
4 police chief initially takes office.

5 (k) A police chief who fails to comply with subsection (j) may not  
6 continue to serve as the police chief until completion of the executive  
7 training program. For the purposes of this subsection and subsection  
8 (j), "police chief" refers to:

9 (1) the police chief of any city;

10 (2) the police chief of any town having a metropolitan police  
11 department; and

12 (3) the chief of a consolidated law enforcement department  
13 established under IC 36-3-1-5.1.

14 A town marshal is not considered to be a police chief for these  
15 purposes, but a town marshal may enroll in the executive training  
16 program.

17 (l) A fire investigator in the division of fire and building safety  
18 appointed after December 31, 1993, is required to comply with the  
19 basic training standards established under this chapter.

20 (m) The board shall adopt rules under IC 4-22-2 to establish a  
21 program to certify handgun safety courses, including courses offered  
22 in the private sector, that meet standards approved by the board for  
23 training probation officers in handgun safety as required by  
24 IC 11-13-1-3.5(3).

25 (n) The board shall adopt rules under IC 4-22-2 to establish a  
26 refresher course for an officer who:

27 (1) is hired by an Indiana law enforcement department or agency  
28 as a law enforcement officer;

29 (2) has not been employed as a law enforcement officer for at  
30 least two (2) years and less than six (6) years before the officer is  
31 hired under subdivision (1) due to the officer's resignation or  
32 retirement; and

33 (3) completed at any time a basic training course certified by the  
34 board before the officer is hired under subdivision (1).

35 (o) The board shall adopt rules under IC 4-22-2 to establish a  
36 refresher course for an officer who:

37 (1) is hired by an Indiana law enforcement department or agency  
38 as a law enforcement officer;

39 (2) has not been employed as a law enforcement officer for at  
40 least six (6) years and less than ten (10) years before the officer  
41 is hired under subdivision (1) due to the officer's resignation or  
42 retirement;

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(3) is hired under subdivision (1) in an upper level policymaking position; and

(4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

A refresher course established under this subsection may not exceed one hundred twenty (120) hours of course work. All credit hours received for successfully completing the police chief executive training program under subsection (i) shall be applied toward the refresher course credit hour requirements.

(p) Subject to subsection (q), an officer to whom subsection (n) or (o) applies must successfully complete the refresher course described in subsection (n) or (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) A law enforcement officer who has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) is not eligible to attend the refresher course described in subsection (n) or (o) and must repeat the full basic training course to regain law enforcement powers. However, a law enforcement officer who has worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) and who otherwise satisfies the requirements of subsection (n) or (o) is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) or (o) and the pre-basic training course established under subsection (f).

(r) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(s) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the

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pre-basic course established in subsection (f); and  
 (2) the securities enforcement officer successfully completes any  
 other training courses established by the securities commissioner  
 in conjunction with the board.

(t) As used in this section, "upper level policymaking position"  
 refers to the following:

(1) If the authorized size of the department or town marshal  
 system is not more than ten (10) members, the term refers to the  
 position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal  
 system is more than ten (10) members but less than fifty-one (51)  
 members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police  
 department or town marshal system in the next rank and pay  
 grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal  
 system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police  
 department or town marshal system in the next two (2) ranks  
 and pay grades immediately below the police chief or town  
 marshal.

**(u) This subsection applies only to a correctional police officer  
 employed by the department of correction. A correctional police  
 officer may exercise the police powers described in subsection (d)  
 if:**

**(1) the officer successfully completes the pre-basic course  
 described in subsection (f); and**

**(2) the officer successfully completes any other training  
 courses established by the department of correction in  
 conjunction with the board.**

SECTION 3. IC 11-8-2-5, AS AMENDED BY P.L.246-2005,  
 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2009]: Sec. 5. (a) The commissioner shall do the following:

(1) Organize the department and employ personnel necessary to  
 discharge the duties and powers of the department.

(2) Administer and supervise the department, including all state  
 owned or operated correctional facilities.

(3) Except for employees of the parole board, be the appointing  
 authority for all positions in the department within the scope of  
 IC 4-15-2 and define the duties of those positions in accord with

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IC 4-15-2.

(4) Define the duties of a deputy commissioner and a superintendent.

(5) Accept committed persons for study, evaluation, classification, custody, care, training, and reintegration.

(6) Determine the capacity of all state owned or operated correctional facilities and programs and keep all Indiana courts having criminal or juvenile jurisdiction informed, on a quarterly basis, of the populations of those facilities and programs.

(7) Utilize state owned or operated correctional facilities and programs to accomplish the purposes of the department and acquire or establish, according to law, additional facilities and programs whenever necessary to accomplish those purposes.

(8) Develop policies, programs, and services for committed persons, for administration of facilities, and for conduct of employees of the department.

(9) Administer, according to law, the money or other property of the department and the money or other property retained by the department for committed persons.

(10) Keep an accurate and complete record of all department proceedings, which includes the responsibility for the custody and preservation of all papers and documents of the department.

(11) Make an annual report to the governor according to subsection (c).

(12) Develop, collect, and maintain information concerning offenders, sentencing practices, and correctional treatment as the commissioner considers useful in penological research or in developing programs.

(13) Cooperate with and encourage public and private agencies and other persons in the development and improvement of correctional facilities, programs, and services.

(14) Explain correctional programs and services to the public.

(15) As required under 42 U.S.C. 15483, after January 1, 2006, provide information to the election division to coordinate the computerized list of voters maintained under IC 3-7-26.3 with department records concerning individuals disfranchised under IC 3-7-46.

(b) The commissioner may:

(1) when authorized by law, adopt departmental rules under IC 4-22-2;

(2) delegate powers and duties conferred on the commissioner by law to a deputy commissioner or commissioners and other

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employees of the department;

(3) issue warrants for the return of escaped committed persons (an employee of the department or any person authorized to execute warrants may execute a warrant issued for the return of an escaped person); ~~and~~

**(4) appoint personnel to be sworn in as correctional police officers; and**

~~(4)~~ **(5)** exercise any other power reasonably necessary in discharging the commissioner's duties and powers.

(c) The annual report of the department shall be transmitted to the governor by September 1 of each year and must contain:

(1) a description of the operation of the department for the fiscal year ending June 30;

(2) a description of the facilities and programs of the department;

(3) an evaluation of the adequacy and effectiveness of those facilities and programs considering the number and needs of committed persons or other persons receiving services; and

(4) any other information required by law.

Recommendations for alteration, expansion, or discontinuance of facilities or programs, for funding, or for statutory changes may be included in the annual report.

SECTION 4. IC 11-8-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

#### **Chapter 9. Correctional Police Officers**

**Sec. 1. The commissioner may appoint an individual to serve as a correctional police officer. An individual appointed to serve as a correctional police officer may not exercise police powers until the individual successfully completes a program of instruction certified by the department and the law enforcement training board.**

**Sec. 2. An individual appointed as a correctional police officer under section 1 of this chapter shall take an appropriate oath of office in the form and manner prescribed by the commissioner. A correctional police officer serves at the pleasure of the commissioner.**

**Sec. 3. Except as provided in section 4 of this chapter, a correctional police officer may:**

**(1) make an arrest;**

**(2) conduct a search or a seizure of a person or property;**

**(3) carry a firearm; and**

**(4) exercise other police powers with respect to the enforcement of Indiana laws.**

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1        **Sec. 4. (a) A correctional police officer may not make an arrest,**  
 2        **conduct a search or a seizure of a person or property, or exercise**  
 3        **other police powers unless the arrest, search, seizure, or exercise**  
 4        **of other police powers is performed:**

5            (1) **in connection with an offense committed on the property**  
 6            **of the department;**

7            (2) **in connection with an offense involving an offender who is**  
 8            **committed to the department;**

9            (3) **in connection with an offense committed in the presence of**  
 10          **the officer; or**

11          (4) **while assisting another law enforcement officer who has**  
 12          **requested the assistance of the correctional police officer.**

13        **(b) The commissioner may additionally limit the exercise of the**  
 14        **powers described in subsection (a).**

15        SECTION 5. IC 35-41-1-17, AS AMENDED BY P.L.230-2007,  
 16        SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17        JULY 1, 2009]: Sec. 17. (a) "Law enforcement officer" means:

18            (1) a police officer **(including a correctional police officer),**  
 19            sheriff, constable, marshal, prosecuting attorney, special  
 20            prosecuting attorney, special deputy prosecuting attorney, the  
 21            securities commissioner, or the inspector general;

22            (2) a deputy of any of those persons;

23            (3) an investigator for a prosecuting attorney or for the inspector  
 24            general;

25            (4) a conservation officer;

26            (5) an enforcement officer of the alcohol and tobacco  
 27            commission; or

28            (6) an enforcement officer of the securities division of the office  
 29            of the secretary of state.

30        (b) "Federal enforcement officer" means any of the following:

31            (1) A Federal Bureau of Investigation special agent.

32            (2) A United States Marshals Service marshal or deputy.

33            (3) A United States Secret Service special agent.

34            (4) A United States Fish and Wildlife Service special agent.

35            (5) A United States Drug Enforcement Agency agent.

36            (6) A Bureau of Alcohol, Tobacco, Firearms and Explosives  
 37            agent.

38            (7) A United States Forest Service law enforcement officer.

39            (8) A United States Department of Defense police officer or  
 40            criminal investigator.

41            (9) A United States Customs Service agent.

42            (10) A United States Postal Service investigator.

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- 1 (11) A National Park Service law enforcement commissioned
- 2 ranger.
- 3 (12) United States Department of Agriculture, Office of Inspector
- 4 General special agent.
- 5 (13) A United States Citizenship and Immigration Services
- 6 special agent.
- 7 (14) An individual who is:
- 8 (A) an employee of a federal agency; and
- 9 (B) authorized to make arrests and carry a firearm in the
- 10 performance of the individual's official duties.

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